ASSISTANT SECRETARY FOR EXPORT ADMINISTRATION

Speaker Identification:

KW: Kevin J. Wolf

KW: I thought while I had you hear I would get a group photo. I am a pretty good amateur photographer, but rarely do I have a chance to, let's see if I can the light just right here.

Alright – Cheese.

One more time – there we go, alright. Great, you look great.

Alright what am I going to say? I usually decide what I'm going to say after I start talking so this is a change for me.

No, thank you very much Eric, it's an honor to work with and for you, you're a terrific leader, public servant, you're making a difference. You are also a very good friend. We work together daily and usually hourly, as you said for nearly five years, and I continue to be amazed and amused that you continue to find new anecdotes to sum up and describe. Generally anecdotes from the 1970's but that's a different story, that sum up and clarify whatever the situation of the hour is, it's a terrific honor to work with you.

Anyway, so last year I spoke to you about the five stages of Export Control acceptance and I hope none of you is in the denial stage still, as we've described it really is happening and Eric gave some great data about how when the administration says it's going to do something it actually does it.

Some other data points, the dollar value of the 600-Series license applications showing companies getting ready to start exporting or otherwise having the authorizations in place has exceeded $7-billion. The Commerce license exceptions, if you look at all of them together, that would have been earlier particular license, there have been 11,000 times when there have been the use of exceptions for the new 600-Series items. If you look at the chart of the rate of growth for the use of license exception STA, which I realize does take some getting used to for some, it's growing exponentially.

In addition with respect to exports to Canada there have been nearly 3,000 exports of 600-Series Canada. The other top

destinations by the way for 600-Series items are the United Kingdom, Japan, South Korea, and Mexico.

And all this information by the way only pertains to the categories that have come online so far as Eric has described, satellites and electronics, which are very-very large categories in terms of their volume will be coming online and becoming effective at the end of the year.

For those of you in the second stage of acceptance – anger, get over it. I know some of you are angry that you thought reform meant that we were going to decontrol your stuff altogether, and Eric said this is not a decontrol effort, and I know it may seem like a game sometimes, or that we're imposing regulatory burdens, but we're not doing that just to mess with you. There are, behind all of this, there are very serious and legitimate national security, foreign policy, human rights, and other reasons that the U.S. governments needs to have visibility into and control over what end items, what technologies, what software and services go to which end users and which destinations and which end uses. So if you're angry that we're not just completely decontrolling your stuff, get over it.

With respect to the Thursday Export acceptance panic, I know that some of you were still there, that these are a lot of changes, this is a very different way of thinking about it. There are a lot of new exceptions to start getting used to, but trust me once you start getting used to them, once you start working with them and understanding them they really will satisfy the twin objectives of the national security, foreign policy goals I have described, and the regulatory efficiency goals that Eric set out.

Some of you I know are in the fourth stage which is bargaining, trying to see how much you can get away with. We're on to you, but also for those of you that are really just sort of testing the corners of a new way of thinking, that's great, keep working with us, keep submitting those questions on a weekly basis. Advisory opinion requests, help us help you work through the contours of the new Regs. And the rest of you I know are in the acceptance stage, you've gone through the classification exercise at great expense I realize from any of you, and a lot of trouble, but that's all for the greater good based on all the comments that we're getting. Because once you get used to the new system, once you get used to the new exceptions, once your parties that you work with overseas start agreeing and understanding to the various exceptions, it can become a very efficient system consistent with the policy objectives.

Anyway, another point to think about is, thinking of the Reform Effort, don't just think of it as a point where we do something and then we're done. I know we focus a lot on the list review exercise because it's quantifiable, it's specific, it has numbers attached to it. But also think about the Reform Effort as that we've instilled within the U.S. government a mindset and a philosophy of continued review. That we are actually going to continually update our regulations, actually do it, continually think about it as national security and foreign policy issues evolve, as technologies evolve, as availability evolves, and that is something I'm really quite proud of is the spirit of sort of continued analysis, continued review, and not seeing the system as static. It needs to be dynamic particularly as we go to a more specific set of types of controls.

Another victory that I see with respect to the various changes that we're doing, both for exporters and re-exporters, is that you all can really start getting to the point where you can believe the regulations that are in front of you. As an exporter, we are not completely there yet, we are working on transparency and clarity as Eric described, but when I was an Export Control attorney I generally gave two types of advice. I gave this is what the law is, and this is what the lower is, and sometimes the two didn't meet up. And one of the real benefits of the reform effort is to the extent the government has a policy, you should get it into the regulations to the extent the policy should change it shouldn't just be through private law, it should be clear and transparent to everybody involved. Again we're not perfectly there yet, but we're definitely moving in that direction.

Over the course of the next three years, or the next three days, you're going to be hearing – the joke is that I have a three minute and a thirty minute and a three hour and a three day version. I guess technically I have a three year version of stuff that I say.

Anyway, you're going to be hearing lots of weedy details, seriously, weedy details about every aspect of the reform effort in the various sessions from the various different officials, certainly from Commerce but also from the other agencies. But one way to think about in the three minute version of what the Defense Trade side of the Reform Effort is the following, and this is sort of the three minute version.

I know there are a lot of words but it's not any more complicated than this – if you're thing, or data, or software service directly related to it is listed on the USML its ITAR controlled. If it's not it's not, it's no more complicated than that.

If your thing is listed in one of the new 600-Series entries or Specially Designed for one of those items with the corresponding USML category it's controlled there, and with the new exceptions that are available to it such as STA eligibility for all parts and components that go into it. And if you're not listed or Specially Designed for one of the military items in 600-Series or USML, then you work through the rest of the Commerce Control List exactly like you always did and you apply the same rules that you always do.

On the Defense Trade side of it, that's the essence of the list base, and then with respect to the destination base, think of essentially that we've divided the world up into three groups. We have the group of 36 wherein if you agree and understand and comply with the new license exceptions you can have incredibly efficient trade buying among and between our NATO and other close allies. If you are thinking about trade with a list of countries subject to U.S. Arms Embargos, that type of activity directly or indirectly is just as illegal today as it was yesterday before the reform effort began. And then the third group is every other country in the middle where for trade and for exports and re-exports there are still licensing requirements, but we believe that with the Commerce system that for the items that we're dealing with, it can result in more efficiencies. That's the group of thinking about it, USML, 600-Series, the rest of the CCL, and then the three groups of countries.

Many of you here though, I realize are not involved in the Defense Trade and you're wondering what the significance is of some of the reform efforts for you. A couple of things, so there are a couple of reasons why we focused on the Defense Trade – first the volume is significantly larger than it is on the Dual-Use Trade, and with respect to Dual-Use items there have been for decades a system in place where less sensitive items to countries of less concern had a series of license exceptions that were available to it. The right sizing has sort of been inherent in the system for a long time, so in a way all we're really doing with the Defense Trade side is doing that which has been done on the Dual-Use side for a very long time, so the changes on the Defense side seem dramatic.

The other thing is that most of our Dual-Use controls are a function of one for multilateral regimes that we the United States are a party to, and it has a much more regularized scheduled process by which we make changes based upon changes in technology and availability and foreign policy and national security considerations. It may seem like we're not making dramatic changes on the Dual-Use side because it's more piecemeal, but they really

are occurring and it really is a significant part of how we spend our days.

For example there is one of the major regimes is the Wassenaar Arrangement Regime, which controls items both civil and for military applications because of the military applications. And I don't know if it will be published today but almost certainly this week, published in the Federal Register will be the changes that this regime agreed to in 2013. And you'll see in that list a significant number of changes, let me read some data points off to you.

Since the last Update Conference we've revised 80 ECCN's, Export Control Numbers, we've added 11 and removed 4, these are on the Dual-Use side. We have revised 7 significant EAR definitions, added 4, and amended 14 supplements. And in the Wassenaar Rule that I just referred to, we revised 34 ECCN's, removed 3, and added 1. We have done things like raising the weighted TeraFLOPS control parameter from 3 to 8 in 4A003, and .25 to .6 in 4001. For those of you in that business you'll know the significance of what I just said.

We added to 5A02 a decontrol note for mobile telecommunications, radio access equipment designed for civil use. We have removed the licensing requirements for exports to Mexico for national security and regional stability Column-2 entries as a result of their exception to the Wassenaar Regime and other issues.

We've clarified the general technology and software notes, multilaterally not just in the U.S. but across countries. We have revised and clarified and added new controls on microwave monolithic integrated circuits because of a deeper appreciation of the significance of those items for military applications.

We've added controls in accelerometer based hydro-acoustic sensors because of their military utility. We added 7 D005 software specially designed to decrypt global navigation satellite systems ranging signals.

Anyway there are dozens of these types of changes that we'll be getting into the weeds for you this week on a variety of topics and you should look to this rule when it's published, and we'll let you know as soon as it's out.

Also on the Dual-Use side we've been making our system, we've been taking the best parts of the State Department system, so for example we extended the validity period of our licenses out for two years, from two years to four years so that ultimate consignees and

end-users and parties during transaction can have a longer period of authorization by which if the U.S. government is reviewed and cleared the end-uses and end-users, you can engage in controlled authorized trade buying among and between them, with we believe a lot less paperwork and thus easier collaboration.

There are other efforts that we described at length last year regarding harmonization of definitions between the two sets of regulations that I believe ultimately will make the system more transparent and efficient. One of the bigger ones that we have yet to get to but we're working on are the harmonized definitions of technology, fundamental research, public domain, and export. We're harmonizing between the two sets of regulations our support document record keeping and destination control statements. These are all things that needed to be updated anyway, and doing so in a coherent one government approach will allow for a lot more efficiency.

I have sort of a secret desire of zero based regulatory writing which is that for every word that we add to the EAR we find a place to take a word out, so just to keep the bulk down. And so we have a series of outdated provisions that we're looking to just simply remove altogether, where they are not really used and they don't really add to the greater good, and are being eclipsed by some of the other changes. But there is another less quantifiable benefit particularly on the Dual-Use side of things that the reform effort has brought in addition to all the statistics is that, and this is I consider sort of a personal victory and one of the reasons I'm really proud about joining the government, in that the agencies are really working very well together. There are multiple agencies involved in the export control system, it isn't just the Commerce Department of course.

Now of course we don't always agree always all the time about everything, and I'd be really worried if we did, but the number of disagreements about what we argue about and the types of disagreements and true vision of the end goal, it's evidencing really terrific progress. If you looked at the data on the number of intensely disputed CJ's and CCAT's and complex licensing determinations, again yes – there are disagreements, we have difference of opinion, different equities, different skills and abilities and backgrounds, but fundamentally the system is beginning to think of itself more as one system under one administration.

Switching gears for the non U.S. companies in the audience who are otherwise listening. One of the things that I have been doing as

part of the outreach and implementation effort is listening to companies to see how it actually works overseas as well as domestically, and one of the things that I've been hearing a lot of is that they don't want to use license exception STA. They generally give, and this is lots of different parts of the world, they generally give three different reasons. One, they say we don't want to use the license exception because we don't want to have to put in writing exactly who the end use and the end user is, we don't want to sign something and put it on our letterhead for the end use and the user is. We don't want the extra record keeping requirements associated with this new license exception, and we don't want the U.S. government to come knocking at our door at night and doing and end use check that they couldn't otherwise do. You may have other reasons for not wanting to sue the exception because your transaction is more complex than a license would be the more straightforward way to do it, but these three points that I hear a lot of aren't really very good arguments. In the first instance you're just as liable with the information that you provide to the U.S. applicant when it's preparing its application to the U.S. government. It has to be true, it has to be correct, you have to tell the applicant who the end user is and what the end use is. With respect to the record keeping requirements, in one hand they really not that much different than that which would be associated with an individual license, but on the other hand the purpose of STA also is education so that the non U.S. parties and the other parties down the line in the transaction are educated and have information about the status about the control status of these particular items. Absent that education, absent that information, absent that record keeping that flows with it, the larger national security objectives are not being met.

And with respect to the end use checks, we're going to be working with countries around the world the same way we always have to do end use checks, whether it's a license or a license exception. Sure of course there's a trade-off with respect to using STA in that for the benefit of not having the need for individual licenses and the delay associated with that, we will be doing monitoring and following checks to insure that you're complying with the conditions. But in the essence it's still going to be basically the same process as David will describe in some detail tomorrow, whether it's a license or a license exception.

Let me close out with some quick summaries of some terrific work that each of our five offices, and as you know BIS is divided into two parts, Export Administration and Export Enforcement, and I shepherd Export Administration and then we're divided up into five

offices. So our Office of National Security and Technology Transfer Controls in cooperation with NOAA is taken the lead in working through the satellite changes and also takes the credit for all the hard work on getting the military electronics rule. They are amazingly busy in working with our various technical advisory groups and thinking up and working on change particularly to the Wassenaar Regime. And under the leadership of Eileen Albanese, it's basically a very clean functioning, very efficient, terrific, thoughtful licensing operation in general.

Our office of Exporter Services as has been described as you can see and will see for the three days has put together another terrific Update Conference, they have been the office that have drafted and put together all the various rules that we've described plus a lot of others. They have processed hundreds of questions that we get weekly, either in terms of the day to day calls or the weekly conference calls that we do. They have done over 200 compliance onsite or desk reviews to insure compliance with the EAR, some in coordination with other BIS offices. And by the way as mentioned earlier, I don't know if she introduced herself, our new Acting Director of the Office of Exporter Services is Karen Nies-Vogel, and you should introduce yourself, and I know we all look forward to working with her.

Our office of Strategic Industries and Economic Security is processed as Eric said over 5,000 600-Series applications since October 15, that operation of the new 600-Series is within CFIUS, but in addition to working on the reform effort they have been leveraging their industrial base expertise, we also support through this office the committee on foreign investment in the United States, and its review of acquisitions to determine national security or other implications in accordance of course with the CFIUS Process.

This office has put together and we've published a proposed rule to update the DPAS regulations to reflect recent amendments to the Defense Production Act, earlier this year, a final rule on that topic will be coming out shortly. Mike Vaccaro is the leader of this group, is doing a terrific job, thank you and your crew for terrific work.

Our office of Technology Evaluation has successfully implemented needed requirements in AES for the collection of exports related to the reform effort, it has successfully organized the training of over 200 customs officials and recorded a nationwide customs training video for use and review by all others. It's completed the Space Deep Dive survey involving over 4,000 respondents, and has

published an initial report on impact of export controls on other things on the Space Industry. It has contributed to the creation of the President's Executive Order on International Trade Data systems which is a single window through which businesses will transmit data required by participating agencies in the import and export stage of cargo. It has also established a system that targets an AES exports that exporters that are non compliant with EAR but by doing data mining, and it's built a database of these exporters and built a follow on program to reach out and contact the exporters where the data that they're using in AES doesn't quite line up with reality.

Anyway thank you to Jerry Horner for leading this and a terrific group of people, and also last but not least our fifth office is the Office of Non-Proliferation Treaty Compliance, which administers the industry compliance aspects of the Chemical Weapons Convention, the private sector compliance aspects of the U.S. additional protocol to the nuclear safe agreement and participates in activities to enhance international implementation of the Biological Weapons Convention. This past year they materially aided international efforts to verify and destroy serious chemical weapons program, the foreign policy licensing officers enabled the U.S. government to provide highly sensitive protective personnel equipment to inspectors for the organization for the Prevention for Chemical Weapons, and the United Nations Joint Nation to Sierra, to enable them to perform their functions in expeditious and safe manner.

The treaty compliance division specialists also established procedures for verifying the receipt and destruction of Sierra's, some of its most difficult to destroy chemicals at U.S. industry facilities and manage the OPCW verification activities at private sector entities in the United States associated with the destruction.

This group has also taken great pride in implementing its responsibilities efficiently and effectively during this virtually hold of government effort to eliminate the threat of further use of chemical weapons in Sierra. Indeed Secretary of State John Kerry recently noted that the success of this inner-agency effort took tremendous teamwork and constructed a great accomplishment which only happened with loads of creativity, constant push and follow through. So thank you Alex Lopes for shepherding this effort and your day to day licensing and regime efforts, it's a very efficient, clean, fun office to work with and you're doing a terrific job.

Anyway, that's all I have to say for now. Thank you all very-very much for coming. Enjoy the next three days of the conference, and see you then.

Thank you.

END